

SB 319 STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/04/23

Action: Do pass and requesting referral to Rules.

Vote: 4-1-0-0

Yeas: 4 - Gelser Blouin, Manning Jr, Prozanski, Thatcher

Nays: 1 - Linthicum

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

Prepared By: Lucy Ohlsen, LPRO Analyst

Meeting Dates: 3/9, 4/4

WHAT THE MEASURE DOES:

Provides that person who contracts with public body to provide services for purposes of community restoration or to restore fitness to proceed is a state officer, employee or agent for purposes of indemnification under Oregon Tort Claims Act for certain claims involving injury or death. Applies to claims arising on or after effective date.

ISSUES DISCUSSED:

- Indemnity versus immunity
- Risks of providing community restoration services
- Shift of risk from state to counties

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon law recognizes that not all criminal defendants who lack fitness to proceed (commonly known as Aid and Assist defendants) need to be committed to the Oregon State Hospital or remain in jail. The fitness to proceed processes delineated in ORS 161.365 and OR 161.370 require courts to consider ordering rehabilitation services to these defendants in the least restrictive setting possible, including ordering a person to engage in community restoration services. These services aim to provide treatment and services to safely allow a defendant to gain or regain fitness to proceed in the community.

Senate Bill 319 would provide that in certain circumstances involving legal claims alleging injury or death arising from the acts of a defendant receiving community restoration services, the person contracting with a public body to provide the community restoration services is a state officer, employee, or agent for purposes of indemnification under the Oregon Tort Claims Act.